IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 3353 of 2007()

CC.2/2006 of JUDL. MAGISTRATE OF FIRST CLASS-II(MOBILE), KOTTAYAM

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PETITIONER:

P.V. VENUGOPAL, AGED 45 YEARS,
BRANCH MANAGER, K.S.F.E. LTD., THALAYOLAPARAMBU
BRANCH (NOW IN KADUTHURUTHY BRANCH, KOTTAYAM).

BY ADV. SRI.P.K.SHAJU

RESPONDENTS:

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1. THE PUBLIC PROSECUTOR,
REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF
KERALA, ERNAKULAM.

2. M.J. SEBASTIAN, AGED 47 YEARS,
NAVANKULANGARAYIL, THALAYOLAPARAMBU,
VADAYOOR VILLAGE, VAIKOM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.3353 of 2007

Dated this the 2nd day of November 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken. The petitioner had entered appearance and was enlarged on bail, it is submitted. But consequent to non-appearance of the petitioner, the learned Magistrate has issued coercive processes against the petitioner. The petitioner finds such coercive processes chasing him.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 and/or 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and

expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003 (1)KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The petitioner makes a submission that the matter has been settled between the parties. If the petitioner and the complainant would appear before the learned Magistrate and seek composition, the learned Magistrate must proceed to pass appropriate orders on such application for composition on such date of appearance itself. If the matter is compounded, it is not necessary for the learned Magistrate to wait to consider the application for composition.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007